

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

## REPORT AND RECOMMENDATION

Before the court by order of reference is defendant Jeremy Atkins Motion to Suppress Evidence, filed on March 9, 2015. (ECF No. 19.) The government filed a response in opposition on March 30, 2015. (ECF No. 25.) The court set the motion for an evidentiary hearing on August 3, 2015.<sup>1</sup> Prior to the start of the hearing, the government stated that it was not contesting the motion and would not seek to use or make reference to any of the evidence at issue in the Motion to Suppress at defendant's trial. The court directed the government to memorialize its position in a supplemental response. On August 3, 2015, the government filed its supplemental response. (ECF No. 52.) In its supplemental response, the government states it does not contest the Motion to Suppress

<sup>1</sup>The suppression hearing was originally scheduled for April 15, 2015, May 7, 2015, May 11, 2015, and June 22, 2015, and was rescheduled each time due to the unavailability of a necessary government witness.

Evidence filed by the defense in this matter. The government states that at trial in this matter, it will not reference or use the evidence referred to in the Motion to Suppress. That evidence, referred to collectively as the "Eclipse Evidence" in the Motion to Suppress, consists of an antique Eclipse brand 12 gauge shotgun, two shotgun shells, and a post-arrest statement made by the defendant to police officers regarding said shotgun and shells.

Based on the government's supplemental response and its statements on the record at the August 3, 2015 hearing, it is hereby recommended that the Motion to Suppress be denied as moot and without prejudice. Neither the government nor defendant object to this recommendation.

Respectfully submitted,

s/ Tu M. Pham  
TU M. PHAM  
United States Magistrate Judge

August 3, 2015  
Date